IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

CRP.No. 966 of 2007()

AGAINST THE ORDER DATED 26/10/2007 IN E.P.216/2004 IN OS.379/1991 of ADDL.SUB COURT, ALAPPUZHA

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REVN. PETITIONER:-JUDGMENT DEBTOR-DEFENDANT

PREMAKUMAR, THOTTUNKARA MADATHIL,
AMBALAPUZHA MURI, DO. VILLAGE, ALAPPUZHA.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS: DECREE HOLDERS - PLAINTIFFS

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1. BHARGAVI AMMA, W/O.PARAMESWARAN PILLAI, (DIED-DECREE HOLDER IN OS 379/91), THAYYIL HOUSE, AMAYIDA, KARUMADI, ALAPPUZHA DISTRICT.

2. BHARGAVI AMMA, JANAMMA, D/O.PARAMESWARAN PILLAI, THAYYIL HOUSE, AMAYIDA, KARUMADI, ALAPPUZHA DISTRICT.

3. BHARGAVI AMMA SUSEELAMMA, D/O.PARAMESWARAN PILLAI, THAYYIL HOUSE, AMAYIDA, KARUMADI, ALAPPUZHA DISTRICT.

4. RAJASEKHARAN PILLAI, S/O.PARAMESWARAN PILLAI, THAYYIL HOUSE, AMAYIDA, KARUMADI, ALAPPUZHA DISTRICT.

5. CHANDRASEKHARAN PILLAI, S/O.PARAMESWARAN PILLAI, THAYYIL HOUSE, AMAYIDA, KARUMADI,ALAPPUZHA DISTRICT.

BY ADV. SRI.A.KRISHNAN FOR R2 TO R5

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.966 of 2007

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Dated this the 7th day of November, 2007.

ORDER

This revision petition is preferred to set aside the order in E.P. 216/04 in OS 379/91 of the Subordinate Judge, Alappuzha. The judgment debtor who is detained in civil prison is the revision petitioner before me. Notice had been taken by special messenger and respondents 2 to 5 had entered appearance. They are not very particular for his continuance in the jail provided there is the intention for the judgment debtor to wipe off the liability. So the other legal points raised are not considered in the light of these submissions. Since this will come under Section 58 (1)(d)(iii), I direct the court below to issue a direction to release the judgment debtor from the prison. I also direct the court below to restore the execution petition filed and thereafter hear the judgment debtor as well as decree holder and fix the instalments for payment of the amount.

2. Since, even after passing an instalment payment order the court shall keep the execution petition alive for the reason that in case of default the right of the decree holder shall not be barred by limitation.

The C.R.P. is disposed of accordingly.

M.N.Krishnan,
Judge.

u/ess 7/11